

REMARKS

In the application claims 1-39 remain pending. No claims presently stand allowed. The reconsideration of the rejection of the claims is, however, respectfully requested.

Claims 1 – 39 have now been rejected under 35 U.S.C. 102(e) as being purportedly anticipated by Movalli, U.S. PG Pub. No. 2005/0004876, and specifically has based rejection of each and every pending claim on the disclosure purportedly set forth in paragraphs 0046-0051 and 0054, and figures 1-5, of Movalli.

Applicant respectfully traverses the Examiner's substantive bases for rejection of the claims.

The invention described by Movalli is intended to provide a more efficient and cost-effective alternative to storing paper credit card receipts, while still providing tamper-resistance and reliable evidence of a transaction if a dispute arises. (Movalli, para. 0007-0013.) Movalli seeks to accomplish this goal by describing a method for memorializing a transaction by generating a unique code using (1) input data related to the transaction being memorialized (*e.g.*, the items purchased, date, time, merchant identity, prices, taxes, etc., and (2) a unique human identifier (*e.g.* a digitized signature, biometric information, retinal pattern, finger print, etc.). (Movalli, para. 0046.)

Applicant submits that the pending claims 1 – 39 patentably distinguish over the prior art cited by the Examiner, and that all of the Examiner's bases for rejection of claims 1 - 39 should be deemed overcome. Reconsideration and withdrawal of the rejections of claims 1 - 39, and allowance thereof are respectfully solicited.

The Examiner has rejected independent claim 1 stating that Movalli purportedly teaches a method of electronically executing a commercial transaction between a customer and a vendor, the method comprising transmitting electronically a transaction code from the customer to an electronic order processing system associated with the vendor; receiving the transaction code by the order processing system associated with the vendor; identifying the user based upon the contents of the transaction code; authenticating the transaction code; authenticating the transaction code; identifying a commercial transaction associated with the transaction code; and executing the identified commercial transaction. Upon a detailed review of each of the cited paragraphs of the Movalli reference and the document as a whole, Applicant respectfully submits that Movalli fails to disclose, teach or suggest the elements of claim 1.

The method of claim 1 is expressly directed to a method of electronically executing a commercial transaction between a customer and a vendor. The system of Movalli is in fact merely a system for memorializing a transaction between a customer and a vendor. For example, Movalli explains that the unique transaction code "is stored for use during verification process." (Movalli, para. 0034.) Movalli further describes methods of later verifying the memorialized transactions – towards confirming the particulars of a previously-executed transaction – not for purposes of executing a new transaction. (See, e.g., Movalli, paras. 0018, 0035.) By contrast, Applicant's claim 1 is directed to the entirely different context of actually executing a commercial transaction – rather than storing and verifying evidence of a transaction that has previously been

executed. For that reason, claim 1 cannot be anticipated by Movalli.

The method of claim 1 also expressly requires the step of transmitting electronically a transaction code (a) from the customer, (b) to an electronic order processing system associated with the vendor. By contrast, the invention described by Movalli contemplates that the unique transaction code is generated by the vendor, and either transmitted from the vendor to a credit card processor, or else stored by the vendor and not transmitted at all. (Movalli, para. 0051.) In either event, the code is not at all transmitting from a customer to a vendor order processing system. Because Movalli does not disclose or suggest the claimed step of transmitting a transaction code from the customer to a vendor order processing system, claim 1 cannot be anticipated by Movalli.

The method of claim 1 also expressly requires the step of receiving the transaction code by the order processing system associated with the vendor. By contrast, in the system of Movalli, the vendor order processing system does not at all receive the transaction code. Rather, the order processing system outputs information, which is conveyed to a separate unique code processor – which in turn generates the unique code for storage or transmittal to a credit card processor. Because Movalli does not disclose the step of receiving the transaction code by the vendor order processing system, claim 1 cannot be anticipated by Movalli.

The method of claim 1 also requires the steps of first identifying a commercial transaction associated with the transaction code, and then executing the identified commercial transaction. In other words, the method of claim 1 is directed to executing a

commercial transaction that has been identified as being associated with the transaction code. By contrast, in the system described by Movalli, the unique code is not used to identify and then execute a commercial transaction. To the extent the unique code is used to identify a transaction at all, it is only in the context of verifying that the transaction was authorized and actually took place. Movalli does not at all disclose or suggest that its unique code be used to later execute another commercial transaction. Accordingly, because Movalli does not disclose or suggest the identifying and executing steps of claim 1, it cannot anticipate claim 1.

The system of Movalli is in fact merely a recording and authentication system that is designed to verify the authenticity of a previously placed transaction, but does not permit the automatic placement of an order for goods or services or otherwise execute a pre-determined commercial transaction. Movalli expressly contemplates that the consumer configure and authenticate the transaction each time a purchase is made, by providing both transaction data and human identifier information each time a purchase is to be made (see, e.g., fig. 2) – and does not disclose the ability to execute a predetermined transaction or repeat a prior transaction.

In sum, as described in detail above, Movalli fails to disclose or suggest at least four novel and nonobvious aspects of the invention of claim 1. Accordingly, Applicant respectfully submits that Movalli does not anticipate claim 1, such that reconsideration and withdrawal of the rejection of claim 1 and allowance thereof, is respectfully solicited.

Inasmuch as dependent claims 2 – 13 merely serve to further define the subject matter of claim 1, which itself should be deemed allowable, claims 2 – 13 also should be

deemed to patentably distinguish over the cited prior art. Reconsideration and withdrawal of the rejections of claims 2 – 13 and allowance thereof, are respectfully solicited.

As to independent claim 14, the Examiner states that Movalli purportedly teaches a method of electronically executing a commercial transaction between a customer and a vendor, the method comprising dialing a transaction code comprised of a telephone dial sequence onto a telephone network directed to an order processing system associated with the vendor; receiving a telephone call by the order processing system as a result of the dialing of the transaction code; detecting caller identification information received by the order processing system from the telephone network in conjunction with the telephone call; detecting at least a portion of the transaction code dial sequence by the order processing system associated with the vendor; identifying the user based upon the caller identification information received by the order processing system; identifying a commercial transaction associated with the transaction code; and executing the identified commercial transaction.

Upon review of each of the cited paragraphs of the Movalli reference as well as the reference as a whole, Applicant respectfully submits that Movalli simply fails to disclose numerous steps required by Applicant's claim 14. Movalli does not disclose dialing a transaction code comprised of a telephone dial sequence. To the extent Movalli discloses a telephone network connection at all (albeit not in the portion cited by the Office Action), it discloses a modem connection between the processor capable of generating a unique code, and the POS equipment which provides input used by the

processor, to generate that unique code. (Movalli, para. 0044.) Movalli does not disclose or suggest the transmission of any transaction code over the telephone network, much less the particular type of transaction code claimed by Applicant. Movalli also does not teach or suggest detecting caller identification information received by an order processing system from a telephone network. Movalli does not disclose or suggest detecting at least a portion of a transaction code by the order processing system. Movalli does not disclose or suggest identifying a user based upon the caller identification information received by the order processing system. Finally, as described above with regard to claim 1, Movalli does not disclose or suggest identifying a commercial transaction associated with the transaction code, then executing that identified commercial transaction. Inasmuch as Movalli lacks at least six elements of claim 14, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 14.

Inasmuch as dependent claims 15 – 17 merely serve to further define the subject matter of claim 14, which itself should be deemed allowable, claims 15 – 17 also should be deemed to patentably distinguish over the cited prior art. Reconsideration and withdrawal of the rejections of claims 15 – 17 and allowance thereof, are respectfully solicited.

As to independent claim 18, the Examiner states that Movalli purportedly anticipates claim 18 for the exact same reasons stated with regard to claim 1. However, claim 18 is directed to different subject matter from claim 1. Whereas claim 1 is directed to a method of electronically executing a commercial transaction between a customer

and a vendor, claim 18 is directed to a method for configuring an electronic user device. Accordingly, the Examiner's basis for rejection of claim 18 is inapplicable to the limitations actually recited by claim 18.

Moreover, upon review of each of the cited paragraphs of the Movalli reference, Applicant respectfully submits that Movalli fails to disclose, teach or suggest configuring a user's device toward the automatic execution of a commercial transaction. Amongst the numerous limitations of claim 18 that are not taught by Movalli, Movalli simply does not contemplate conveying a transaction code as disclosed in the present application to a user device to in turn permit the user to use the device to execute a commercial transaction. Indeed, no mention is made of a user device, yet alone the process of configuring same by generating a transaction code or storing a transaction code in a device.

Inasmuch as dependent claims 19 – 24 merely serve to further define the subject matter of claim 18, which itself should be deemed allowable, claims 19 – 24 also should be deemed to patentably distinguish over the cited prior art. Reconsideration and withdrawal of the rejections of claims 18 – 24 and allowance thereof, are respectfully solicited.

As to independent claim 25, the Examiner states that Movalli purportedly teaches a method for the dissemination of information to a mobile electronic user device based upon the device location, for the facilitation of a commercial transaction between a customer and a vendor, the method comprising the steps of: identifying the location of the user device; determining that the location of the user device conforms to a

predetermined location criterion for receipt of a message; conveying the message to the user device electronically.

Upon review of each of the cited paragraphs of the Movalli reference, Applicant respectfully submits that Movalli fails to disclose, teach or suggest any use or reference to the consumer's location or an electronic user device, much less the specific steps of identifying the location of the user's electronic device, determining the user's location or electronically conveying a message to the user's device.

Inasmuch as dependent claims 26 - 36 merely serve to further define the subject matter of claim 25, which itself should be deemed allowable, claims 26 - 36 also should be deemed to patentably distinguish over the cited prior art. Reconsideration and withdrawal of the rejections of claims 26 - 36 and allowance thereof, are respectfully solicited.

As to independent claim 37, the Examiner states that Movalli purportedly teaches a method for the dissemination of information to a mobile electronic user device based upon the device location, for the facilitation of a commercial transaction between a customer and a vendor, the method comprising identifying the current location of the user device; identifying the direction and rate at which the user device is moving; determining that the location, direction of travel and rate of travel of the user device conform to one or more predetermined criterion for receipt of a message; conveying the message to the user device electronically.

Upon review of each of the cited paragraphs of the Movalli reference, Applicant respectfully submits that Movalli fails to disclose, teach or suggest any use or reference

to the consumer's location or an electronic user device, much less the specific steps of identifying the direction and rate at which the user device is moving for any purpose within the scope of the Movalli system.

Inasmuch as dependent claims 38 - 39 merely serve to further define the subject matter of claim 37, which itself should be deemed allowable, claims 38 - 39 also should be deemed to patentably distinguish over the cited prior art. Reconsideration and withdrawal of the rejections of claims 38 - 39 and allowance thereof, are respectfully solicited.

CONCLUSION

It is respectfully submitted that the cited reference fails to disclose, teach, or suggest each and every element set forth in the pending claims. For at least this reason it is submitted that the application is in good and proper form for allowance. Such action of the part of the Examiner is respectfully requested. Should it be determined, however, that a telephone conference would expedite the prosecution of the subject application, the Examiner is respectfully requested to contact the attorney undersigned.

The Commissioner is authorized to charge any fee deficiency or credit overpayment to deposit account 50-2428 in the name of Greenberg Traurig.

Respectfully submitted,

GREENBERG TRAURIG, LLP

Dated: March 14, 2006


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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail postage pre-paid under 37 C.F.R. § 1.8 in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 14, 2006.


